

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

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| EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, |) |
| Plaintiff, | |
| v. | |
| JAMES CARS OF HAMBURG LLC, D/B/A | |
| JAMES MITSUBISHI HAMBURG and | |
| JAMES AUTO MANAGEMENT LLC | |
| Defendants. | |

Civil Action No. 1:20-cv-00780-LJV

CONSENT DECREE

On June 24, 2020, Plaintiff, the Equal Employment Opportunity Commission (“EEOC”), commenced this action under Title VII of the Civil Rights Act of 1964, as amended (“Title VII”) to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Katelyn Sealy and another individual, both of whom were adversely affected by such unlawful practices. Specifically, the EEOC alleged that Defendants James Cars of Hamburg, LLC d/b/a James Mitsubishi Hamburg (“James Mitsubishi Hamburg”), and James Auto Management LLC, subjected Sealy and another female employee to egregious sexual harassment by a male general manager, and constructively discharged Sealy. The EEOC further alleged that the general manager at James Mitsubishi Hamburg routinely made offensive comments about female employees’ physical appearance and bodies, propositioned them for sex, and touched and gave them massages. Finally, the EEOC alleged that Sealy was forced to resign to escape the harassment.

Defendants James Mitsubishi Hamburg and James Auto Management LLC (“James Auto”) deny the above allegations and any violation with respect to the allegations set forth by the EEOC.

In consideration of the mutual promises of each party, the sufficiency of which is hereby acknowledged, it is agreed and ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

PART I. GENERAL PROVISIONS

Section 101. Purpose of this Decree.

A. The EEOC and Defendants (each a “party,” all “parties”) desire to settle this action and do hereby stipulate and consent to entry of this Decree as final and binding between the parties.

B. The Decree resolves all issues raised in the EEOC’s Complaint and Charge of Discrimination No. 525-2018-01155, which served as the jurisdictional prerequisite in this case. This Decree in no way affects the EEOC’s right to process pending or future charges that may have been or will be filed against Defendants, and to commence civil actions on such charges.

C. The EEOC and Defendants agree that this Court has jurisdiction over the subject matter of this litigation and the parties, that venue is proper, and that all administrative prerequisites have been met. No party will contest the validity of this Decree or the jurisdiction of the federal district court to enforce this Decree and its terms.

D. The terms of this Decree represent the full and complete agreement of the parties. The parties agree that this Decree may be entered into without Findings of Fact and Conclusions of Law being made and entered by the Court.

Section 102. Definitions.

A. “James Mitsubishi Hamburg” means Defendant James Cars of Hamburg, LLC d/b/a James Mitsubishi Hamburg, and its predecessors, successors, assigns, agents, and entities in active concert.

B. “James Auto” means Defendant James Auto Management LLC, and its predecessors, successors, assigns, agents, and entities in active concert.

C. "Defendants" refers to Defendant James Mitsubishi Hamburg, of which James Provenzano serves as President, and James Auto.

D. The "EEOC" is the U.S. Equal Employment Opportunity Commission, an agency of the United States Government charged with administering, interpreting, and enforcing Title VII.

E. "Charging Party" refers to Katelyn Sealy, who filed EEOC Charge of Discrimination Number 525-2018-01155.

F. "Claimant" refers to the individual (other than the Charging Party) subjected by Defendants to unlawful employment practices while employed by Defendants.

G. "Bi-annual" means occurring twice annually, six (6) months apart.

H. "Relevant Time Period" means January 1, 2018 through July 31, 2018.

I. "Day" or "Days" means calendar days and includes weekends and holidays.

J. "Contact Information" means home address, home phone number, cell phone number, and personal e-mail address.

K. "Effective Date" means the date the Decree is entered by the Court.

Section 103. Applicability of Decree to Successors and Assigns or Upon Purchase, Merger, or Consolidation.

At least fifteen (15) days before Defendants engage in the sale/transfer of the business to a successor and assign, or before the purchase, merger or consolidation of James Mitsubishi Hamburg, Defendants will provide written notice of this lawsuit and a copy of the Complaint and this Decree to any potential purchaser of its business, and to any potential successors, assigns, or affiliates, including any entity with which they may merge or consolidate. Defendants will provide written notice to the EEOC ten (10) days before the sale/transfer of the business to a successor and assign, or before the purchase, merger or consolidation of James Mitsubishi Hamburg.

Section 104. Amendments to this Decree.

This Decree may be amended in the interests of justice and fairness and to facilitate execution of this Decree's provisions by written agreement of the parties or application to the Court. No waiver, modification, or amendment of any provision of this Decree will be effective unless made in writing and approved or ordered by the Court.

Section 105. Severability.

If one or more provisions of this Decree are rendered unlawful or unenforceable as a result of a legislative act or a decision by a court of competent jurisdiction, the following will apply to ensure that this Decree continues to effectuate the intent of the parties. The provisions of this Decree that are not rendered unlawful, unenforceable, or incapable of performance as a result of such legislative act or court decision will remain in full force and effect and the parties' responsibilities will not abate as to any and all provisions that have not been rendered unlawful or unenforceable, except to the extent that the intent of this Decree would be undermined.

Section 106. Breach of Decree.

A breach of any term of this Decree by Defendants will be deemed a material and substantive breach of this Decree. Nothing in this Decree will be construed to preclude the EEOC from bringing proceedings to enforce this Decree if Defendants fail to perform any of the terms contained herein. This Decree will be construed by this Court under applicable federal law.

Section 107. Notices.

Except as otherwise provided for in this Decree, all notifications, reports, and communications to the parties required under this Decree will be made in writing and will be sufficient as emailed, hand-delivered, faxed, or sent by certified, registered, or overnight mail to the following persons (or their designated successors):

For EEOC:

James E.B. Bobseine
Trial Attorney
Buffalo Local Office
300 Pearl Street, Suite 450
Buffalo, NY 14202
james.bobseine@eeoc.gov

and decreemonitor.nydo@eeoc.gov

For Defendants:

Matthew C. Van Vessem
Goldberg Segalla LLP
665 Main Street
Buffalo, NY 14203
mvanessem@goldbergsegalla.com

Any party may change such addresses by written notice to the other parties setting forth a new address for this purpose.

PART II. INJUNCTIVE RELIEF

Section 201. Injunctions.

A. Defendants will not subject any employee to a hostile work environment based on their sex or any other protected category listed in the Title VII of the Civil Rights Act of 1964, as amended (“Title VII”).

B. Defendants will not retaliate against any person because of opposition to any practice declared unlawful under Title VII, because of the filing of a charge, giving of testimony or assistance, or participation in any manner in any investigation, proceeding, or hearing under Title VII.

Section 202. Posting and Distributing Notices.

A. Posting of Notice of Lawsuit and Resolution.

1. Within seven (7) days of the Effective Date, James Mitsubishi Hamburg will sign and conspicuously post and maintain a “Notice of Lawsuit and Resolution” (the “Notice,” attached as Exhibit A) in all prominent places where employee notices are posted in James

Mitsubishi Hamburg. James Mitsubishi Hamburg will certify in writing to the EEOC within seven (7) days after it has posted the Notice pursuant to this provision. It will remain in place for the duration of the Decree and will not be removed, defaced, or obscured.

B. Provision of Notice and Memo to Certain Current and Former Employees.

1. Within twenty-one (21) days of the Effective Date, James Mitsubishi Hamburg will provide a copy of the Notice (Exhibit A) and a memorandum (hereafter the “James Memo,” attached as Exhibit B) setting forth James Mitsubishi Hamburg’s commitment to ensuring a workplace free from discrimination, including sexual harassment and sex discrimination, to all current employees at James Mitsubishi Hamburg. James Mitsubishi Hamburg will certify in writing to the EEOC within seven (7) days after it has distributed the Notice and James Memo pursuant to this provision.

2. Within thirty (30) days of the Effective Date, James Mitsubishi Hamburg will provide a copy of the Notice (Exhibit A) and the James Memo (Exhibit B) to all individuals who worked at James Mitsubishi Hamburg during the Relevant Time Period, by First Class U.S. Mail at their last provided addresses. James Mitsubishi Hamburg will certify in writing to the EEOC within seven (7) days after it has distributed the Notice and James Memo pursuant to this provision.

3. James Mitsubishi Hamburg will provide the Notice (Exhibit A) and James Memo (Exhibit B) to all future employees of James Mitsubishi Hamburg, within fourteen (14) days of the start of their employment. Beginning six (6) months after the Effective Date, and then on a bi-annual basis thereafter, James Mitsubishi Hamburg will certify in writing to the EEOC that it has distributed the Notice and James Memo, including a list of employees to whom they were distributed.

Section 203. Non-Discrimination Policies and Procedures.

A. Within twenty-one (21) days of the Effective Date, James Mitsubishi Hamburg will adopt new policies and procedures (the “James Policy”) on employment discrimination, setting forth James Mitsubishi Hamburg’s commitment to providing equal employment opportunities to individuals of all sexes, and to employees’ right to be free from retaliation. This James Policy will contain at least the following elements:

1. A detailed explanation of Title VII’s prohibition against sex discrimination, sexual harassment, and retaliation;
2. James Mitsubishi Hamburg’s assurance that it will not retaliate against employees who make complaints of discrimination, who oppose practices they consider to be unlawfully discriminatory, and/or who participate in protected activity or who provide information related to complaints of discrimination;
3. A clearly described process with multiple avenues for reporting and/or complaining of sex discrimination, sexual harassment, or retaliation, including but not limited to:
 - i. A requirement that all aspects of an investigation will be thoroughly documented in written form;
 - ii. A confidential, toll-free Complaint Hotline, accessible 24 hours per day, seven days per week;
 - iii. Designation of a salaried senior manager at James Mitsubishi Hamburg as responsible for the investigation, documentation, and resolution of all internal complaints regarding discrimination, harassment, or retaliation at James Mitsubishi Hamburg;

- iv. James Mitsubishi Hamburg's assurance that it will accept any and all complaints from employees who wish to file complaints internally;
- v. James Mitsubishi Hamburg's assurance that it will permit the filing of anonymous complaints and provide safeguards to preserve a complainant's anonymity when requested;
- vi. James Mitsubishi Hamburg's assurance that it will keep confidential to the extent possible and not publicize unnecessarily the subject matter of the complaints or the identity of the complainants;
- vii. A requirement that both the individual who raises the complaint, and the responding party, will be informed of the outcome of the investigation.

B. The James Policy will also advise employees of their right to contact the EEOC and/or a state or local agency in the event that the employee believes he or she has been discriminated against in violation of Title VII or similar state or local law or regulation. The James Policy is attached as Exhibit C. The James Policy will not be modified without EEOC approval, which approval will not be withheld without justification. Attachment of the James Policy to this Decree is not a representation by EEOC that James Mitsubishi Hamburg has been or currently is in compliance with federal anti-discrimination laws.

C. Within twenty-one (21) days of the Effective Date, James Mitsubishi Hamburg will include the James Policy in its Employee Handbook and will distribute copies of the James Policy to each employee. James Mitsubishi Hamburg will certify in writing to EEOC within twenty-one (21) days after they have distributed the James Policy pursuant to this provision.

D. James Mitsubishi Hamburg will provide all new employees with copies of the James Policy and the James Memo within seven (7) days of the beginning of their employment.

E. Beginning six (6) months after the Effective Date, and then on a bi-annual basis thereafter Defendant will certify in writing to the EEOC that it has included the James Policy in its Employee Handbook, and distributed the James Policy and the James Memo, in accordance with the above terms.

Section 204. Training and Discipline.

A. Managerial Training.

1. Within sixty (60) days of the Effective Date, James Mitsubishi Hamburg will provide at least six (6) hours of live, interactive training to all current supervisory and management employees of James Mitsubishi Hamburg on James Mitsubishi Hamburg's obligations under Title VII, including the prohibitions against sexual harassment and sex discrimination. The training must also cover James Mitsubishi Hamburg's policies and procedures for addressing reports and complaints of employment discrimination. The training will be conducted by Juan Canto, M.S. This training must be in addition to any other training already to be provided to employees of James Mitsubishi Hamburg, including but not limited to any training required under New York State law or otherwise required by this Decree.

2. Within sixty (60) days of the Effective Date, and again within sixty (60) days of the second anniversary of the Effective Date, James Mitsubishi Hamburg will provide at least six (6) hours of live, interactive, one-on-one training to its former General Manager Steven Kupiec on its obligations under Title VII, including the prohibitions against sexual harassment and sex discrimination. The training must also cover James Mitsubishi Hamburg's policies and procedures for addressing reports and complaints of employment discrimination. The training will

be conducted by Juan Canto, M.S. This training must be in addition to any other training already to be provided to Kupiec, including but not limited to any training required under New York State law or this Decree.

B. Initial Training.

Within sixty (60) days of the Effective Date, James Mitsubishi Hamburg will provide at least two (2) hours of live, interactive training to all other employees of James Mitsubishi Hamburg on James Mitsubishi Hamburg's obligations under Title VII, including the prohibitions against sexual harassment and sex discrimination. The training must also cover James Mitsubishi Hamburg's policies and procedures for addressing reports and complaints of employment discrimination. The training will be conducted by Juan Canto, M.S. This training must be in addition to any other training already to be provided to employees of James Mitsubishi Hamburg, including but not limited to any training required under New York State law or otherwise required by this Decree.

C. Annual Training.

Within thirty (30) days of each anniversary of the Effective Date, James Mitsubishi Hamburg will provide at least two (2) hours of live, interactive training to all employees of James Mitsubishi Hamburg, including the prohibitions against sex discrimination, sexual harassment, and retaliation. The training will also cover James Mitsubishi Hamburg's policies and procedures for addressing reports and complaints of employment discrimination, and an employee's right to file a charge of discrimination with the EEOC and state or local agencies. The training will be conducted by Juan Canto, M.S. The manager of James Mitsubishi Hamburg must be present and in person, to introduce the trainer and state James Mitsubishi Hamburg's commitment to the goals of the training. President James Provenzano must be present, by video, telephone, or in person, to

introduce the trainer and state James Mitsubishi Hamburg's commitment to the goals of the training. This training must be in addition to any other training already to be provided to employees of James Mitsubishi Hamburg, including but not limited to any training required under New York State law or otherwise required by this Decree.

D. Reporting Requirements for Training.

All employees attending any training session described in the above paragraphs will print and sign their full names and job titles on an attendance sheet. Within thirty (30) days of the completion of any training described in the preceding paragraphs, James Mitsubishi Hamburg will provide EEOC with copies of all attendance sheets and a then-current employee list, a list of any employees who were required to but did not attend the training, and copies of all training materials presented.

E. Pre-Training Notification Requirement.

At least ten (10) days prior to the Managerial Training, Initial Training, and Annual Training required under this Section, James Mitsubishi Hamburg will provide the EEOC with notice of the date, time, and location of the scheduled training. The EEOC, at its discretion, may attend and observe one or more of the training sessions and may provide changes to be implemented by the trainer. At least ten (10) days prior to the Managerial Training, Initial Training, and Annual Training required under this Section, James Mitsubishi Hamburg will also submit to the EEOC a plan to ensure that all employees receive the required training.

F. Managerial Discipline.

Within seven (7) days of the Effective Date, former James Mitsubishi Hamburg General Manager Steven Kupiec will receive a disciplinary warning in writing for engaging in alleged sexual harassment targeting employees at James Mitsubishi Hamburg and that any further similar

conduct may result in termination.

Section 205. Monitoring and Reporting.

A. Monitoring by the EEOC.

The EEOC may monitor compliance with this Decree by inspection of the James Mitsubishi Hamburg's premises and records, including materials received or created by James Mitsubishi Hamburg as part of the internal harassment reporting process, and interviews with employees, including speaking with President James Provenzano regarding former James Mitsubishi General Manager Steven Kupiec, at reasonable times and with reasonable notice by the EEOC. James Mitsubishi Hamburg agrees to make available for inspection and copying any records reasonably related to the Agreement, upon at least ten (10) days' notice by the EEOC.

B. Reporting to the EEOC.

1. Within fourteen (14) days of any verbal or written complaint of any employee being subjected to a hostile work environment or retaliation from an employee at or applicant to James Mitsubishi Hamburg, James Mitsubishi Hamburg will report that complaint to the EEOC. The report will include the name and job title of and Contact Information for the complainant, the name and job title of the alleged harasser or discriminator, and a summary of the complaint.

2. Within seven (7) days of James Mitsubishi Hamburg's completion of an investigation of any such complaint, James Mitsubishi Hamburg will provide to the EEOC a list of each step taken by it during the investigation, the results of any investigation, and any remedial action taken by it.

Section 206. Compliance with Recordkeeping Requirements.

Within seven (7) days of the Effective Date, Defendants will adopt a document retention policy consistent with its recordkeeping obligations under Section 709(c) of Title VII, 42 U.S.C. § 2000e-8(c), and 29 C.F.R. Part 1602 *et seq.* The Retention Policy is attached as Exhibit D. The Retention Policy will not be modified without EEOC approval, which approval will not be withheld without justification. Defendants agree to maintain such records as are necessary to demonstrate its compliance with this Decree and 29 C.F.R. §1602 *et seq.* and to verify that the reports submitted pursuant to this Decree are accurate.

PART III. MONETARY RELIEF

Section 301. Monetary Relief.

A. James Mitsubishi Hamburg will pay \$110,000.00 (one hundred ten thousand dollars and no cents) in monetary relief to Charging Party and the Claimant pursuant to the procedures outlined herein. The EEOC warrants and represents that neither the Charging Party nor the Claimant are Medicare eligible.

B. Within three (3) days of the Effective Date, the EEOC will provide James Mitsubishi Hamburg with the full legal names and mailing addresses of Charging Party and the Claimant, and will specify the amount that each will receive in backpay and/or compensatory damages. The amount of distribution to each individual will be determined solely by the EEOC in its discretion.

C. Within ten (10) days of the Effective Date, James Mitsubishi Hamburg will mail checks to Charging Party and the Claimant at the addresses provided by the EEOC. James Mitsubishi Hamburg (and/or its agent as may be determined by James Mitsubishi Hamburg) will issue an IRS Form 1099 representing compensatory damages. Charging Party and the Claimant

will be responsible for any federal, state, or local taxes that may be due on the portion of the payment representing compensatory damages.

D. The payments will be made by check and sent by certified mail, return receipt requested, to Charging Party and the Claimant, and will be accompanied in both cases by a statement identifying the nature and amount of each withholding. A copy of the checks and withholding statement will be provided to the EEOC immediately upon their issuance.

E. James Mitsubishi Hamburg will make all required withholdings from the portion of the payment representing backpay for applicable federal, state, and local income taxes and the employee share of federal payroll taxes, and will issue an IRS Form W-2. James Mitsubishi Hamburg will be responsible for (and may not deduct from the payment to any recipient of monetary relief) any tax obligation that James Mitsubishi Hamburg incurs as a result of this payment, including any employer's share of federal payroll taxes. James Mitsubishi Hamburg (and/or its agent as may be determined by James Mitsubishi Hamburg) will issue an IRS Form 1099 for the portion of the payment representing compensatory damages.

PART IV. SIGNATURES

Each signatory to this Decree represents that he or she is fully authorized to execute this Decree and to bind the parties on whose behalf he or she signs.

PART V. DURATION OF DECREE

A. This Decree will remain in effect for three (3) years from the Effective Date. The Decree will not expire against any signatory while any enforcement action is pending against that signatory.

B. If the EEOC has notified Defendants in writing not less than thirty (30) days in advance of the expiration of this Decree that Defendants are not in compliance with any sections

of this Decree, Defendants' obligations under this Decree will remain in effect until the EEOC determines that Defendants are in compliance.

C. The Court will retain jurisdiction over this action for all purposes including, but not limited to, the entering of all orders, judgments, and decrees as necessary to implement the relief provided herein. Upon signature and approval by the Court, the matter may be administratively closed but will not be dismissed.

D. The parties will bear their own expenses, attorneys' fees and costs.

For Plaintiff EEOC:



Jeffrey Burstein
Regional Attorney



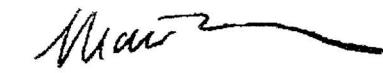
Nora Curtin
Supervisory Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
New York District Office
33 Whitehall Street, 5th Floor
New York, New York 10004



James E.B. Bobseine
Trial Attorney
EEOC Buffalo Local Office
Olympic Towers
300 Pearl Street, Suite 450
Buffalo, New York 14202

For Defendants James Cars of Hamburg LLC d/b/a
James Mitsubishi Hamburg and
James Auto Management LLC:



Matthew C. Van Vessem
Goldberg Segalla LLP
655 Main Street
Buffalo, NY 14203

SO ORDERED this 8 day of February, 2021.



Lawrence J. Vilardo
United States District Judge

EXHIBIT A

NOTICE TO ALL EMPLOYEES OF JAMES MITSUBISHI HAMBURG.

This Notice has been posted pursuant to a Consent Decree entered by the federal court in *EEOC v. James Cars of Hamburg LLC d/b/a James Mitsubishi Hamburg LLC and James Auto Management LLC*, Case No. 1:20-cv-00780 (W.D.N.Y.) resolving a lawsuit filed by the U.S. Equal Employment Opportunity Commission (“EEOC”) against James Cars of Hamburg LLC d/b/a James Mitsubishi Hamburg LLC and James Auto Management LLC (together, “James Cars”). This Notice applies to employees of James Mitsubishi Hamburg only (“the Company”).

In its lawsuit, the EEOC alleged that James Cars violated by Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), by permitting the sexual harassment of female employees at James Mitsubishi Hamburg, a dealership located at 5160 Camp Road, Hamburg, NY 14075. The EEOC alleged that a male general manager routinely made offensive comments about female employees’ physical appearance and bodies, propositioned them for sex, and touched and gave them massages. The EEOC also alleged that James Cars’ indifference to complaints of sexual harassment forced one female employee to resign her position to escape the harassment. James Cars disputed these allegations. The Parties agreed to resolve the lawsuit and the Court executed the Parties’ agreement.

To resolve the case, the Company and the EEOC have entered into a Consent Decree that provides, among other things, that the Company pay \$110,000.00 in damages to the person who filed the charge of discrimination against the Company as well as a female employee identified by the EEOC as harmed by its unlawful conduct and agree to the following:

1. Not subject any employee to a hostile work environment based on their sex or any other protected category listed in the Title VII;
2. Not retaliate against any employee who reports discrimination, or participates in any way with a proceeding involving discrimination under Title VII;
3. Provide training on federal laws prohibiting employment discrimination to current and future employees, including management employees;
4. Discipline of the manager who harassed employees and failed to properly handle and address complaints;
5. Advise employees of their right to contact the EEOC or the New York State Division of Human Rights, should an employee believe discrimination occurred;
6. Distribute materials relating to the Company’s policies and practices regarding discrimination and harassment, including a document clearly setting forth the Company’s policies regarding complaints of discrimination and/or harassment; and
7. Permit the EEOC to monitor compliance with the Decree and provide periodic reports regarding any discrimination complaints made by employees.

Should you have any complaints of discrimination you may also contact:

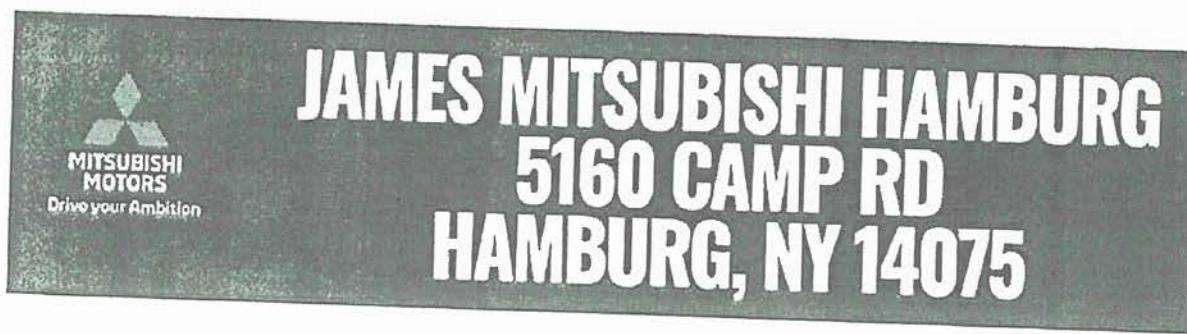
U.S. Equal Employment Opportunity Commission, Buffalo Local Office
300 Pearl Street, Suite 450
Buffalo, New York 14202
(716) 431-5013 or for the office nearest you (880) 669-4000
Website: www.eeoc.gov

Dated: _____

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE ALTERED OR DEFACED BY
ANYONE OR COVERED BY ANY OTHER MATERIAL**

This notice must remain posted for three (3) years from the date shown above and must not be altered, defaced, or covered by any other material. Any questions concerning this Notice or compliance with its provisions may be directed the U.S. Equal Employment Opportunity Commission.

EXHIBIT B



Dear Employee,

As you know, James Cars of Hamburg, LLC d/b/a James Mitsubishi Hamburg ("James Mitsubishi Hamburg") is an Equal Opportunity Employer. Additionally, James Mitsubishi Hamburg prohibits discrimination and harassment in the workplace of any kind. James Mitsubishi Hamburg is committed to maintaining a respectful work environment and providing employees with a work environment that is free of discrimination (including sex discrimination and sexual harassment), and retaliation. James Mitsubishi Hamburg will not tolerate any form whatsoever of discrimination, hostile work environment, retaliation, or harassment.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Provenzano".

James Provenzano
President, James Mitsubishi Hamburg

A handwritten signature in blue ink, appearing to read "Jason Leopre".
A second, slightly different handwritten signature in blue ink, appearing to read "Jason Leopre".

Jason Leopre
Corporate GM, James Mitsubishi Hamburg

A handwritten signature in blue ink, appearing to read "Steven Kupiec".
A second, slightly different handwritten signature in blue ink, appearing to read "Steven Kupiec".

Steven Kupiec

EXHIBIT C

James Cars of Hamburg, LLC d/b/a James Mitsubishi Hamburg

Anti-Harassment and Discrimination Prevention Policy

Adopted January ___, 2021

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James Cars of Hamburg, LLC d/b/a James Mitsubishi Hamburg (hereinafter “James Mitsubishi Hamburg”) is committed to maintaining a workplace free of discrimination and harassment. James Mitsubishi Hamburg believes in the dignity of the individual and recognizes the right of any person to equal opportunities. In this regard, James Mitsubishi Hamburg has had a longstanding practice of protecting and safeguarding the rights and opportunities of any person who might seek or obtain employment without being subjected to illegal discrimination or harassment in the workplace.

Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute harassment, sexual harassment, discrimination or retaliation is encouraged to report such behavior to a supervisor, manager or the Corporate GM (as discussed in more detail in Section V, below).

James Mitsubishi Hamburg does not discriminate on the basis of race (including traits historically associated with race, including hair texture and protective hairstyles, such as braids, locks, and twists), color, religious creed (including religious dress and grooming practices), national origin (including language use restrictions), ethnicity, ancestry, disability (mental and physical) including HIV and AIDS, citizenship status, veteran status, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions relating to those), age, sexual orientation, gender (including gender identity or gender expression), marital status, medical condition, genetic information, status as a victim of domestic violence, stalking or sexual assault, familial status, criminal history status, relationship or association with members of a protected class, or any other characteristic protected under applicable law. Equal employment opportunities will be extended to all persons in all aspects of the employment relationship, including recruitment, hiring, promotion, transfer, corrective action, layoff, recall, and separation. Sexual harassment is also a form of workplace discrimination.

James Mitsubishi Hamburg will not tolerate sexual harassment, other illegal harassment, discrimination or retaliation and all employees are required to work in a manner that prevents harassment and discrimination in the workplace. This Policy is one component of James Mitsubishi Hamburg’s commitment to a discrimination-free work environment.

I. **POLICY**

1. James Mitsubishi Hamburg’s policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with James Mitsubishi Hamburg. In the remainder of this document, the term “employees” refers to this collective group.
2. Harassment, sexual harassment, discrimination, or retaliation will not be tolerated. Any employee or individual covered by this Policy who engages in harassment, sexual harassment, discrimination, or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to any adverse action because the employee reports an incident of illegal harassment, sexual harassment, discrimination, or retaliation, provides information, or otherwise assists in any investigation

of a harassment, sexual harassment, discrimination or retaliation complaint. James Mitsubishi Hamburg will not tolerate such retaliation against anyone who reports or provides information about suspected harassment, sexual harassment, discrimination or retaliation; however, this provision does not apply to an employee who intentionally makes a false complaint of harassment, sexual harassment, discrimination, or retaliation. Any employee of James Mitsubishi Hamburg who retaliates against anyone involved in a harassment, sexual harassment, discrimination or retaliation investigation will be subjected to disciplinary action, up to and including termination. All employees working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or the Corporate GM. All employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

4. Harassment, sexual harassment, discrimination, and retaliation is offensive, is a violation of our policies, is unlawful, and may subject James Mitsubishi Hamburg to liability for harm to targets of harassment, sexual harassment, discrimination or retaliation. Harassers may also be individually subject to liability. Employees of every level who engage in harassment, sexual harassment, discrimination or retaliation, including managers and supervisors who engage in harassment, sexual harassment, discrimination or retaliation or who allow such behavior to continue, will be penalized for such misconduct.
5. James Mitsubishi Hamburg will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about harassment, sexual harassment, discrimination or retaliation or otherwise knows of possible harassment, sexual harassment, discrimination, or retaliation occurring. James Mitsubishi Hamburg will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever unlawful harassment, sexual harassment, discrimination or retaliation is found to have occurred. All employees are encouraged to cooperate with any internal investigation of harassment, sexual harassment, discrimination, or retaliation. Managers and supervisors are required to cooperate with any internal investigation of harassment, sexual harassment, discrimination, or retaliation.
6. All employees are encouraged to report any harassment, sexual harassment, discrimination, retaliation or behaviors that violate this Policy. James Mitsubishi Hamburg will provide all employees a complaint form for employees to report harassment, sexual harassment, discrimination, or retaliation and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Corporate GM.
8. This Policy must be provided to all employees, posted prominently in all prominent places where employee notices are posted in James Mitsubishi Hamburg, and be provided to employees upon hiring.

II. HARASSMENT IN THE WORKPLACE

James Mitsubishi Hamburg is committed to providing a work environment that is free of harassment, discrimination, and retaliation. In keeping with this commitment, James Mitsubishi Hamburg prohibits all forms of illegal harassment, including sexual harassment and harassment based on race (including traits historically associated with race, including hair texture and protective hairstyles, such as braids, locks, and twists), color, religious creed (including religious dress and grooming practices), national origin (including language use restrictions), ethnicity, ancestry, disability (mental and physical) including HIV and AIDS, citizenship status, veteran status, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions relating to those), age, sexual orientation, gender (including gender identity or gender expression), marital status, medical condition, genetic information, status as a victim of domestic violence, stalking or sexual assault, familial status, criminal history status or any other characteristic protected under applicable law.

It is the responsibility of all James Mitsubishi Hamburg employees to ensure that such conduct does not occur and to follow the complaint procedure set forth below.

Examples of “harassment” that are covered by this Policy include offensive language, jokes, or other physical, verbal, written, or pictorial conduct relating to the employee’s race (including traits historically associated with race, including hair texture and protective hairstyles, such as braids, locks, and twists), color, religious creed (including religious dress and grooming practices), national origin (including language use restrictions), ethnicity, ancestry, disability (mental and physical) including HIV and AIDS, citizenship status, veteran status, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions relating to those), age, sexual orientation, gender (including gender identity or gender expression), marital status, medical condition, genetic information, status as a victim of domestic violence, stalking or sexual assault, familial status, criminal history status or any other characteristic protected by applicable law that would make a reasonable person experiencing such behavior feel uncomfortable or would interfere with the person’s work performance.

The examples above are just that - examples. It is impossible to list every type of behavior that might be considered unlawful harassment in violation of this Policy. In general, any conduct based on these traits that interferes with an individual’s work performance or could create an offensive environment will be considered harassment in violation of this Policy. This is the case even if the offending employee did not mean to be offensive.

III. WHAT IS SEXUAL HARASSMENT?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should, and is encouraged to, report any violation of this Policy so that it can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this Policy. Reports may be made to a supervisor, manager or the Corporate GM (as discussed in more detail in Section V, below).

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments (including related to a person's sexuality or sexual experience) which create a hostile work environment.

Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by James Mitsubishi Hamburg contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

IV. RETALIATION

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a harassment, sexual harassment, discrimination or retaliation claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. Federal law and the New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of harassment, sexual harassment, discrimination, or retaliation either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving harassment, sexual harassment, discrimination, or retaliation under the Human Rights Law or other anti-discrimination law;
- opposed harassment, sexual harassment, discrimination, or retaliation by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been harassed, sexually harassed, discriminated against, or retaliated against; or
- encouraged a fellow employee to report harassment, sexual harassment, discrimination, or retaliation.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation. Any employee who feels retaliated against should, and is encouraged to, report any violation of this Policy so that it can be corrected promptly. Reports may be made to a supervisor, manager or the Corporate GM (as discussed in more detail in Section V, below). However, the retaliation provision does not apply to an employee who intentionally makes a false complaint of harassment, sexual harassment, discrimination, or retaliation.

V. REPORTING HARASSMENT, DISCRIMINATION, OR RETALIATION

Preventing unlawful harassment, sexual harassment, discrimination, or retaliation is everyone's responsibility. James Mitsubishi Hamburg cannot prevent or remedy unlawful harassment, sexual harassment, discrimination or retaliation unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute harassment, sexual harassment, discrimination or retaliation is encouraged to report such behavior to a supervisor, manager or the Corporate GM. Anyone who witnesses or becomes aware of potential instances of harassment, sexual harassment, discrimination or retaliation should report such behavior to a supervisor, manager or the Corporate GM. (Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, as discussed in Section VI below.)

Reports of harassment, sexual harassment, discrimination or retaliation (on behalf of oneself or anyone else) may be made verbally or in writing, including by the following methods.

- **Submitting a written complaint.** A form for submission of a written complaint is attached to this Policy, and all employees may use this complaint form. This form—or any written complaint—may be mailed or delivered to the Corporate GM, located at 108 South Comrie Ave, Johnstown, NY, 12095, or emailed to jasonl@jamecars.net.
- **Calling 855-526-3710.** This is a confidential, toll-free Complaint Hotline, accessible 24 hours per day, seven days per week.

- **Informing orally or in writing any supervisor, manager, or the Corporate GM. The Corporate GM may be reached by telephone at 315-224-1712.**

James Mitsubishi will keep confidential to the extent possible and not publicize unnecessarily the subject matter of the complaints or the identity of the complainant. Complaints by any method may also be made anonymously, in which case James Mitsubishi Hamburg will strive to preserve a complainant's anonymity. Anonymous complaints will be investigated as thoroughly as a complaint in which the complainant is identified. Employees should note, however, that James Mitsubishi's ability to identify relevant witnesses and documents may in some cases be limited by a complainant's anonymity.

Employees who believe they have been a target of harassment, sexual harassment, discrimination or retaliation may also seek assistance in other available forums, as explained below in Section VIII, Legal Protections and External Remedies.

VI. SUPERVISORY RESPONSIBILITIES

All supervisors and managers who receive a complaint or information about suspected harassment, sexual harassment, discrimination or retaliation, observe what may be harassing, discriminatory or retaliatory behavior or for any reason suspect that harassment, sexual harassment, discrimination or retaliation is occurring, **are required** to report such suspected harassment, discrimination, or retaliation to the Corporate GM.

In addition to being subject to discipline if they engaged in harassing, discriminatory or retaliatory conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected harassment, sexual harassment, discrimination or retaliation or otherwise knowingly allowing harassment, sexual harassment, discrimination or retaliation to continue.

Supervisors and managers will also be subject to discipline for engaging in retaliation.

VII. COMPLAINT AND INVESTIGATION OF HARASSMENT, SEXUAL HARASSMENT, DISCRIMINATION OR RETALIATION

All complaints or information about harassment, sexual harassment, discrimination or retaliation will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, will be thoroughly documented in written form, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected harassment, sexual harassment, discrimination or retaliation will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

All employees are encouraged to cooperate with any internal investigation of harassment, sexual harassment, discrimination, or retaliation. Managers and supervisors are required to cooperate with any internal investigation of harassment, sexual harassment, discrimination, or retaliation. James

Mitsubishi Hamburg will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this Policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Corporate GM, and/or a designee (who must also be a salaried senior manager at James Mitsubishi Hamburg) will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If the complaint is verbal, the Corporate GM will encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, the Corporate GM will prepare a Complaint Form based on the verbal reporting. If the complaint is made anonymously, the Corporate GM will prepare a Complaint Form based on the anonymous complaint.
- If documents, emails or phone records are relevant to the allegations, the Corporate GM or designee (who will be a salaried senior manager at James Mitsubishi Hamburg) will take steps to obtain and preserve them.
- The Corporate GM or designee (who will be a salaried senior manager at James Mitsubishi Hamburg) will request and review all relevant documents, including all electronic communications.
- The Corporate GM or designee (who will be a salaried senior manager at James Mitsubishi Hamburg) will interview all parties involved, including any relevant witnesses.
- The Corporate GM or designee (who must also be a salaried senior manager at James Mitsubishi Hamburg) will create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- James Mitsubishi Hamburg will keep the written documentation and associated documents in a secure and confidential location.
- Upon completion of the investigation, the Corporate GM or designee (who must also be a salaried senior manager at James Mitsubishi Hamburg) will promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.

- The Corporate GM or designee (who must also be a salaried senior manager at James Mitsubishi Hamburg) will inform the individual who reported of his or her right to file a complaint or charge externally as outlined below.

VIII. LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Harassment, sexual harassment, discrimination or retaliation is not only prohibited by James Mitsubishi Hamburg but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at James Mitsubishi Hamburg, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney. In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State regardless of size, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within three years of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to James Mitsubishi Hamburg does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that harassment, sexual harassment, discrimination, or retaliation has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If harassment, sexual harassment, discrimination, or retaliation is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the conduct, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and

mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Federal Anti-Discrimination Laws

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act of 1990, and Title II of the Genetic Information Nondiscrimination Act of 2008. An individual can file a complaint with the EEOC anytime within 300 days from the harassment, sexual harassment, discrimination, or retaliation.

There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that harassment, sexual harassment, discrimination or retaliation has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if harassment, sexual harassment, discrimination or retaliation is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

James Mitsubishi Hamburg Complaint Form

If you believe that you have been subjected to harassment, sexual harassment, discrimination or retaliation you are encouraged to complete this form and submit it by mailing or delivering it to Jason Leone, the Corporate GM, located at 108 South Comrie Ave, Johnstown, NY, 12095, Phone: 315-224-1712, Email: jasonl@jamescars.net. You may also submit a complaint by calling 855-526-3710, which is a confidential, toll-free Complaint Hotline, accessible 24 hours per day, seven days per week. If you wish to remain anonymous, please indicate this. James Mitsubishi Hamburg will strive to preserve a complainant's anonymity, but it cannot guarantee anonymity. You will not be retaliated against for filing a complaint.

For additional resources, visit: ny.gov/programs/combating-sexual-harassment-workplace

COMPLAINANT INFORMATION

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method: Email Phone In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

COMPLAINT INFORMATION

1. Your complaint of Harassment, Sexual Harassment, Discrimination or Retaliation is made about:

Name: Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Subordinate Co-Worker Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) harassment, sexual harassment, discrimination or retaliation occurred: Is the harassment, sexual harassment, discrimination or retaliation continuing? Yes No
4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional, but may help the investigation.

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

EXHIBIT D

RECORD RETENTION POLICY

James Cars of Hamburg, LLC d/b/a James Mitsubishi Hamburg (the “Company”) complies with all federal records management laws and regulations, including the recordkeeping requirements and implementing regulations of Title VII of the Civil Rights Act of 1964 (“Title VII”), Title I of the Americans with Disabilities Act (“ADA”), the Age Discrimination in Employment Act of 1967, Title II of the Genetic Information Nondiscrimination Act of 2008 (“GINA”), and the Equal Pay Act of 1963. This record retention policy addresses records management issues for employees and applicants. When hired, an employee personnel file is created by the Company, where general employee records are kept. Applicants’ recordkeeping files are kept separately from those of employees.

The Company will maintain personnel records for a one-year time period. The year is measured from the date the record was created or the date the personnel action involved was taken, whichever is later. Personnel and employment records include, but are not limited to, requests for reasonable accommodation, application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship.

The Company will keep all payroll records for three years. The Company will keep records of any employee benefit plan and any written seniority or merit system for the full period the plan or system is in effect and for at least one year after its termination. The company will keep for two years any records that explain the basis for paying different wages to employees of opposite sexes in the same establishment, for example, wage rates and job evaluations.

All paper-based documents relating to the Company’s personnel record system are kept in secure, locked files. Employee and applicant files that are kept electronically also are securely maintained and backed up in the Company’s electronic communications systems. All such files are accessible only to authorized employees who have a valid, demonstrable need to obtain specific information from employee or applicant files and as allowed or required under federal and state laws and regulations. Any disability-related information, such as reasonable accommodation requests, is maintained in a separate, confidential file—not in a personnel file.

Where an employee has filed Charge of Discrimination (hereinafter “Charge”) under Title VII, the ADA, or GINA, or where a civil action has been brought by the Equal Employment Opportunity Commission (hereinafter “EEOC”) or Attorney General, against the Company, the Company shall preserve all personnel records relevant to the Charge or action until final disposition of the Charge or action. The term “personnel records relevant to the charge,” for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected. The date of final disposition of the Charge or the action means the date of expiration of the statutory period within which the aggrieved person may bring an action in a U.S. District Court or, where an action is brought against the Company either by the aggrieved person, the EEOC or by the Attorney General, the date on which such litigation is terminated.

The Company retains records for the time period(s) required by federal and state laws and regulations; after such time periods expire, the Company destroys any such records, including electronic records, as required by such laws and regulations.